WATER CONSERVATION

DISTRICT ACT

September, 1997

	r
	:
	<u> </u>
	Name of the control
	f

# AND

# WATER CONSERVATION DISTRICT ACT

# AS ENACTED BY

CHAPTER 1617 OF THE STATUTES OF 1951 CHAPTER 1396 OF THE STATUTES OF 1953 CHAPTER 1171 OF THE STATUTES OF 1955 CHAPTER 1474 OF THE STATUTES OF 1955 CHAPTER 1440 OF THE STATUTES OF 1957 CHAPTER 1767 OF THE STATUTES OF 1957 CHAPTER 357 OF THE STATUTES OF 1957 CHAPTER 1728 OF THE STATUTES OF 1959 CHAPTER 1886 OF THE STATUTES OF 1959 CHAPTER 1725 OF THE STATUTES OF 1961 CHAPTER 2029 OF THE STATUTES OF 1963 CHAPTER 1715 OF THE STATUTES OF 1963 CHAPTER 1102 OF THE STATUTES OF 1965 CHAPTER 270 OF THE STATUTES OF 1972 CHAPTER 133 OF THE STATUTES OF 1975 CHAPTER 584 OF THE STATUTES OF 1975 CHAPTER 585 OF THE STATUTES OF 1975 CHAPTER 526 OF THE STATUTES OF 1976 CHAPTER 1107 OF THE STATUTES OF 1979 CHAPTER 539 OF THE STATUTES OF 1982 CHAPTER 565 OF THE STATUTES OF 1992

# **AND**

# WATER CONSERVATION DISTRICT ACT

# AS ENACTED BY

CHAPTER 1617 OF THE STATUTES OF 1951 CHAPTER 1396 OF THE STATUTES OF 1953 CHAPTER 1171 OF THE STATUTES OF 1955 CHAPTER 1474 OF THE STATUTES OF 1955 CHAPTER 1440 OF THE STATUTES OF 1957 CHAPTER 1767 OF THE STATUTES OF 1957 CHAPTER 357 OF THE STATUTES OF 1957 CHAPTER 1728 OF THE STATUTES OF 1959 CHAPTER 1886 OF THE STATUTES OF 1959 CHAPTER 1725 OF THE STATUTES OF 1961 CHAPTER 2029 OF THE STATUTES OF 1963 CHAPTER 1715 OF THE STATUTES OF 1963 CHAPTER 1102 OF THE STATUTES OF 1965 CHAPTER 270 OF THE STATUTES OF 1972 CHAPTER 133 OF THE STATUTES OF 1975 CHAPTER 584 OF THE STATUTES OF 1975 CHAPTER 585 OF THE STATUTES OF 1975 CHAPTER 526 OF THE STATUTES OF 1976 CHAPTER 1107 OF THE STATUTES OF 1979 CHAPTER 539 OF THE STATUTES OF 1982 CHAPTER 565 OF THE STATUTES OF 1992

# **TABLE OF CONTENTS**

SECTI	<u>ON</u>	<u>PAGE</u>
1	Naming of Act	2
2	Boundaries of District	2 2 2 3
3	Establishing Zones within District	2
3.1	Provisions Relating to Zones Applicable to Subzones	3
3.2	Determination of Boundaries (Annexations & Exclusions)	four
3.3	Dissolution of Zones, Subzones, or Drainage Areas	6
4	Objects and Purposes of Act	9
5	Powers of District	10
	1. Perpetual succession	10
	2. Sue and be sued	10
	3. Adopt seal	10
	4. Acquire property	11
	5. Conserve, store, import water	12
	6. Control flood waters	12
	7. Cooperate with other agencies	13
	8. Make technical investigations	14
	9. Right of entry, acquisition	14
	10. Incur indebtedness, issue bonds	14
	11. Cause taxes and assessments to be levied	15
	<ol><li>Make contracts and employ labor</li></ol>	15
	13. Eminent Domain	16
	14. Contract with county, cities, and districts	16
	15. Construction and maintenance of structures or	
	Channels	16
	16. Provide for recreational facilities	16
	17. Landscape installation and maintenance	16
5.1	Explanation of Terms Used in Improvement Acts	17
5.2	Exercise of Rights and Powers of Officers, Agents, Employees	18
5.3	Restriction of Improvements	18
5.4	Assessment or Bond	18
5.5	Ordering of Construction	18
5.6	Enforcing Ordinances & Regulations for Protection &	40
	Maintenance of Artificial Watercourses	19
5.7	Violation of Ordinances or Regulations of the District	19
6	Board of Supervisors	19
6.1	Appointment and Powers of Commission	20
6.2	Zone Advisory Board	21
7	Duties of Officers, Deputies, Agents, Employees	21
8	Employment of Officers, Agents, Employees	22
9	Development of Plans and Reports	22 23
10	Determining Beneficiary of Each Project or Work of Improvement	23 24
11	Institution of Zone Projects - Public Hearing - Protests	24 28
12	Levying and Collecting Taxes or Assessments by Board	20

# **TABLE OF CONTENTS (Cont'd)**

<u>SECTION</u>			PAGE
	12.1	Power to Collect Fees or Charges	31
	12.2	Establish Drainage Areas Within the District	31
	12.3	Intention to Establish Drainage Area	34
	12.4	Intention to Levy Taxes or Assessments	34
	12.5	Protests Against Formation of Drainage Area	35
	12.6	Annexation to or Exclusion from Drainage Area	36
	12.7	Public Hearing for Formation of Drainage Area	36
	12.8	Storm Water Utility Areas; Assessment; Report; Hearing;	
		Collection of Assessments	37
	13	Procedure for Bond Elections	41
	14	Prescribing Form of Bonds	43
	15	Issuing and Selling of Bonds	44
	16	Taxation to Pay Bonds Limited to Zones Involved	45
	17	Payment of Principal and Interest on Bonds	45
	18	Adoption of Applicable provisions of State Law for Taxation	
		(Exemptions from Taxation)	45
	18.5	Limitations of Total Amount of Taxes and Assessments	46
	19	Conversion of Storm Drain Maintenance District and Drainage	
		Zones into Drainage Area	47
	19.1	Proceedings for Conversion	47
	19.2	Notice of Conversion Hearings	48
	19.3	Protests Against Conversion	49
	19.4	Levy Taxes and Assessments	49
	20	Security of Bonds as Legal Investments	50
	20.1	Bonds for Drainage Areas	50
	21	Exemption of Bonds from Taxation	50
	22	Letting of Contracts - Procedure	50
	23	Works of Improvement - Bonding - Conformity to Report	52
	24	Issuing Additional Bonds	52
	25	Failure of Bond Election - Time Limit	53
	25.5	Exchanging Refunding Bonds for Outstanding Bonds	53
	26	Affect on Bonds of Repeal, or Amendment of Act	54
	27	Withdrawal of Cities from District	55
	28	Rights of Way Granted to District Over State Public Lands	55
	29	Creating a Revolving Fund	56
	30	Presenting Claims Against District	56
	30.5	Challenges to Ordinance or Resolution; Law Applicable;	
		Automatic Adjustments; Appeals	57
	31	Titles in Property, Surplus Property, Use of Property by Others	57
	32	Legality of Existence of District	58
	33	Bonding of Officers and Employees	59
	34	Uses of Interest or Revenue Accruing from Investment of Bonds	59
	35	Act to be Liberally Construed	59
	36	Invalidity of Portions of Act	59
		Urganov Clause on Pevisions to Act	<b>50</b>

# CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ACT AS ENACTED BY

An act to create a flood control district to be called Contra Costa County Flood Control and Water Conservation District; to provide for the control and conservation of flood and storm waters and the protection of watercourses, watersheds, harbors, public highways, life and property from damage or destruction from such waters; to prevent the waste of water or the diminution of the water supply in, or the exportation of water from said district, and to import water into said district and to obtain, retain, and reclaim drainage, storm, flood and other waters and to save and conserve all or any of such waters for beneficial use in said district; to authorize the incurring of indebtedness, the issuance and sale of bonds, and the levying and collection of taxes and assessments on property within said district and in the respective zones thereof; to provide for the government, management, and operation of said district and for the acquisition and construction of property and works to carry out the purposes of the district; to define the powers of said district and its officers.

CHAPTER 1617 - Approved by Governor July 19, 1951 CHAPTER 1396 - Approved by Governor June 25, 1953 CHAPTER 1171 - Approved by Governor June 21, 1955 CHAPTER 1474 - Approved by Governor June 29, 1955 CHAPTER 1440 - Approved by Governor July 5, 1957 CHAPTER 1767 - Approved by Governor July 5, 1957 CHAPTER 357 - Approved by Governor May 8, 1957 CHAPTER 1728 - Approved by Governor July 9, 1959 CHAPTER 1886 - Approved by Governor July 16, 1959 CHAPTER 1725 - Approved by Governor July 14, 1961 CHAPTER 2029 - Approved by Governor September 16, 1963 CHAPTER 1715 - Approved by Governor September 16, 1963 CHAPTER 1102 - Approved by Governor September 17, 1965 CHAPTER 270 - Approved by Governor July 3, 1972 CHAPTER 133 - Approved by Governor June 20, 1975 CHAPTER 585 - Became law without Governor's approval (September 8, 1975) CHAPTER 526 - Approved by Governor August 21, 1976 CHAPTER 1107 - Approved by Governor September 27, 1979 CHAPTER 539 - Approved by Governor August 17, 1982 CHAPTER 565 - Approved by Governor August 30, 1992

The people of the State of California do enact as follows:

**SECTION 1--**This act shall be known and may be cited as the Contra Costa County Flood Control and Water Conservation District Act.

SECTION 2--A flood control district is hereby created to be called the Contra Costa County Flood Control and Water Conservation District. Said district shall consist of all the territory of the County of Contra Costa lying within the exterior boundaries of said County. As used in this act "district" means the Contra Costa County Flood Control and Water Conservation District.

**SECTION 3--**The board of supervisors of the district created by this act, by resolution thereof adopted from time to time, may establish zones or subzones within said district without reference to the boundaries of other zones or subzones, setting forth in such resolutions descriptions thereof by metes and bounds and entitling each of such zones by a zone number, and institute zone or subzone projects for the specific benefit of such zones or subzones. Such zones shall, as far as practicable, include complete watersheds. Any subzone formed shall be entitled with a zone number and a letter of the alphabet.

Such zones or subzones may also be established in the manner prescribed in Section II of this act, independently of the institution of any project relating to such zone or subzone.

Alternately, such zones or subzones may be formed concurrently with and as a part of the proceeding for the installation of a project relating to such zones or subzones in the manner prescribed in Section II of this act.

If prior to taking final action to form any zone or subzone, the exterior boundaries of which will include any lands lying within the exterior boundaries of any chartered or incorporated city within the district, the board of supervisors receives the resolution or ordinance adopted by a majority of the members of the governing body of such city requesting exclusion of such city territory from the zone or subzone, the board shall exclude such territory.

**SECTION 3.1--**(a)All of the provisions of this act relating to zones or participating zones apply to subzones formed under Section 3, and all of the powers and duties conferred or imposed by this act with respect to zones or participating zones, including the powers and duties to levy and collect taxes or assessments and to incur indebtedness and to issue and sell bonds, apply with respect to subzones or participating subzones.

- (b) It is hereby declared that for the purposes of any tax or assessment levied under paragraph 2 of subdivision (a) of Section 12 in any subzone or participating subzone, the property so taxed or assessed is equally benefitted.
- (c)Whenever a special bond election is called and held under Section 13, or as authorized by Section 24, with respect to any subzone or participating subzone, the election shall be called and held only within the subzone or participating subzone for which the bonded indebtedness is proposed to be incurred and need not be called or held in any of the remaining territory of the zone or participating zone of which the subzone or participating subzone is a part. Any defect or irregularity in the proceedings prior to the calling of the special bond election does not affect the validity of the bonds authorized by the election.

(d)When a project affects a single subzone only, then bonds for the subzone for the amount stated in the proceedings shall be issued and sold pursuant to this act only if, at the election called for that purpose, two-thirds of the votes cast in the subzone on the proposition of incurring a bonded indebtedness are in favor thereof.

(e)If the incurring of bonded indebtedness by participating subzone is to be determined at any election, no bonds for any of the participating subzones shall be issued or sold unless two-thirds of the votes cast on the proposition submitted at the election in each participating subzone are in favor of incurring the bonded indebtedness to be undertaken by the participating subzone.

(f)Bonds of the district issued for any subzone or participating subzone pursuant to this act shall be legal investments and may be used as security, and money or funds may be invested in the bonds, as provided in Section 20 with respect to bonds of the district issued for zones.

(g)The zone advisory board provided for in Section 6.2 constitutes the subzone advisory board. (Amended by Stats 1992, c.565 (A.B.2768),§ 1.)

SECTION 3.2--Any parcel, parcels, or tract of land may be annexed to a zone or subzone, and any parcel, parcels, or tract of land within any zone or subzone may be excluded where such annexation or exclusion is required due to land division or development affecting, or requiring the adjustment of existing zone or subzone boundaries. Proceedings for annexation or exclusion may be instituted by the board by resolution specifying its intention to annex or exclude such parcel, parcels, or tract of land, describing the proposed land to be annexed or excluded and specifying a time and place for public hearing on such resolution, which public hearing may be

held at any place within the district, and directing the clerk to give notice of such public hearing, as hereinafter provided. In the alternative such proceedings may be instituted by the filing with the board of a petition signed by 10 percent or more of the owners, as defined in Section II, of the land to be annexed or excluded. The petition shall contain:

- (a) The name of the zone or subzone affected by the annexation or exclusion.
- (b) The reason for annexation or exclusion of the land.
- (c) A description of the land to be annexed or excluded.
- (d) The assent of the petitioners to the annexation or exclusion.
- (e) A request that the described land be annexed to or excluded from the zone or subzone.

When the petition has been filed with the board, the board shall fix a time and place for a hearing thereon, which public hearing may be held at any place within the district, and cause a notice of such hearing to be given as provided in Section 3.3. The notice shall state:

- (a) The date the petition was filed.
- (b) The location and boundaries of the land described in the petition.
- (c) The prayer of the petition.
- (d) The time and place fixed for hearing on the situation.
- (e) That all persons interested in or affected by such change in the zone of subzone boundaries may appear and show cause why the change should not be made. At the hearing, the board shall hear all relevant evidence for or against the petition.

Failure to show cause by any person interested in or affected by the change is deemed to be his assent to any change the board may make in the zone or subzone boundaries.

At the conclusion of the hearing, if it deems the annexation or exclusion of all or part of the land to be for the best interests of the zone or subzone, the board may by resolution annex or exclude all or part of the land described in the petition and shall, in such resolution, describe the zone or subzone boundaries as changed. If no effective date for such annexation or exclusion is specified in the resolution, then the effective date shall be deemed to be the date of the resolution.

The exclusion of any land or territory from a zone or subzone does not release such land or territory from any debts or obligations for which it was liable at the time of the exclusion unless otherwise specified in the resolution of exclusion.

In the case of annexation, the board may require that the owners of annexed land shall pay a sum not to exceed the amount of the taxes or assessment which the owners or their predecessors in interest would have been required to pay if the annexed land had been included in the zone or subzone when it was formed.

SECTION 3.3--Zones, subzones, or drainage areas may be dissolved in the following manner:

(a) (1) The board may adopt a resolution specifying its intention to dissolve a zone, subzone, or drainage area and fixing the time and place for a public hearing on the

resolution, which public hearing may be held at any place within the district. The resolution shall name or describe the zone, subzone, or drainage area and notice of the hearing shall be given as hereinafter provided; or

- (2) A petition signed by 10 percent or more of the landowners in the zone, subzone, or drainage area as defined in Section II hereof, may be addressed to and filed with the board. The petition may be filed in sections. Each section shall comply with all the requirements for a petition, except that it need not contain all the signatures required for the petition. The petition shall:
- (i) State the name of the zone, subzone or drainage area.
- (ii) Request that the zone, subzone, or drainage area be pursuant to this act.
- (iii) Request that a time and place be fixed for a public hearing upon said petition.

Upon presentation and filing of the petition, the board shall fix a time and place for a public hearing thereon. Such public hearing may be held at any place within the district.

(b) If there is a newspaper or general circulation in the zone, subzone, or drainage area notice shall be given by publication in the newspaper once a week for two consecutive weeks prior to the hearing, the last publication of which must be at least seven days before the hearing. If there is no such newspaper, notice shall be given

by posting notice of the hearing for a period of 14 days prior to the hearing in three public places in the zone, subzone, or drainage area. The notice of hearing shall state the following:

- (1) The name of the zone, subzone, or drainage area.
- (2) That a resolution has been passed by the board declaring its intention to dissolve the zone, subzone, or drainage area or that a petition has been filed with the board requesting dissolution of the zone, subzone, or drainage area.
- (3) That the resolution or petition may be inspected at the district's office.
- (4) The time and place for the public hearing on the said resolution or petition.
- (5) That protests will be considered at the hearing.
- At the time and place fixed for the hearing or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the dissolution of the zone, subzone, or drainage area. After the conclusion of the hearing, the board may by resolution dissolve the zone, subzone, or drainage area. If no effective date for the dissolution is specified in the resolution, the dissolution shall be deemed effective as of the date of the resolution. If the zone, subzone, or drainage area is not so dissolved, it shall be deemed to be continued in uninterrupted existence.
- (d) The dissolution of a zone, subzone, or drainage area does not relieve the property in the zone, subzone, or drainage area from any debts, obligations, or liabilities for which it was liable at the time of the dissolution.

- (e) A zone may not be dissolved pursuant to this section until one of the following conditions exists:
  - (1) All debts, obligations, and liabilities are paid.
  - (2) There is sufficient cash in the County treasury standing to the credit of such zone to pay all debts, obligations and liabilities in full as they become due.
- (f) Upon dissolution of a zone, subzone, or drainage area the right, title, and interest to any property or funds owned or controlled by, or held for the zone, subzone, or drainage area, or for the benefit of the zone, subzone, or drainage area, whether in the County treasury or in any other place or manner, shall vest absolutely in the district and may be used for any district purposes unless otherwise specified in the resolution of dissolution.

SECTION 4--The purposes of this act are to provide for the control of the flood and storm waters of the district and the flood and storm waters of streams that have their source outside of the district but which flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining and causing to percolate into the soil within the district, or outside the district, those waters, or to save or conserve in any manner all or any of those waters and protect from flood or storm waters the watercourses, watersheds, harbors, public highways, life and property in the district and to prevent waste of water or diminution of the water supply in, or exportation of water from the district and to obtain, retain and reclaim drainage, storm, flood and other water for beneficial use in the district, and to provide for the participation of the district in the national pollutant discharge elimination system (NPDES) program pursuant to

the Federal Water Pollution Control Act (Chapter 26 [commencing with Section 1251] of Title 33 of the United States Code) as provided by this act.

(Amended by Stats.1992, c565 (A.B.2768), § 2.)

SECTION 5--(a) The district has perpetual succession and may sue and be sued.

#### (b) The district may do the following:

- 18. Adopt a seal.
- 2. Acquire by grant, purchase, lease, gift, devise contract, construction, or otherwise, hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges; construct, maintain, alter, and operate any and all works or improvements, within or outside the district, necessary or proper to carry out any of the purposes of this act and convenient to the full exercise of its powers; and to complete, extend, add to, alter, remove, repair, or otherwise improve any works, or improvements, or property acquired by the district.
- 3. Store water in surface or underground reservoirs within or outside the district for the common benefit of the district, or of any zone or zones affected; conserve and reclaim water for present and future use within the district; appropriate and acquire water and water rights, and import water into the district and conserve within or outside the district, water for any purpose useful to the district; commence, maintain, intervene in, defend or compromise, in the name of the district or otherwise, and assume the costs of, any action or proceeding involving or affecting the ownership

or use of waters or water rights within or outside the district, used or useful for any purpose of the district or of common benefit to any land situated in the district, or involving the wasteful use of water in the district; commence, maintain, intervene in. defend and compromise, and assume the cost of, any action and proceeding to prevent interference with or diminution of, or to declare rights in, the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to lands within the district or to its inhabitants, to prevent unlawful exportation of water from the district, or to prevent contamination, pollution, or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in the district; or commence, maintain and defend actions and proceedings to prevent interference with those waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district, except that the district may intervene or take part in, or pay the costs of, actions or controversies between the owners of lands or water rights which do not affect the interest of the district.

4. Control the flood and storm waters of said district and the flood and storm waters of streams that have their sources outside of said district but which flow into the district, and conserve those waters for beneficial and useful purposes of the district by spreading, storing, retaining, and causing to percolate into the soil within or outside the district, or save or conserve in any manner all or any of those waters and protect from damage from flood or storm waters the watercourses, watersheds, harbors, public highways, life and property in the district, and the watercourses outside of the district of streams flowing into the district, and prevent waste of water

or diminution of the water supply in, or exportation of water from, the district, and obtain, retain, and reclaim drainage, storm, flood, and other waters for beneficial use in the district. However, nothing in this act authorizes the carrying out of any plan of improvement, the purpose of which is, or the effect of which will be, to take water which flows in any watershed in the district and transport or sell that water for use anywhere outside the district when the water level of any gravel beds within the district is below the normal level and the water could reasonably be used to replenish the water level of the gravel beds, or precludes the exercise by any other public entity located, in whole or in part, within the district from exercising its powers, although those powers may be of the same nature as the powers of the district. Any other public entity may, by written agreement with the district provide for the use, or joint use, of property or facilities in which the other public entity has an interest, or for the use, or joint use, of property or facilities in which the district has an interest.

- 5. Cooperate and act in conjunction with the State, the United States, or with any public or private corporation, or with the County of Contra Costa or adjacent counties, in the construction of any work for the controlling of flood or storm waters of or flowing into, the district, or for the protection of life or property in the district, or for the purpose of conserving the waters for beneficial use within the district, or in any other works, acts, or purposes provided for in this act, and adopt and carry out any definite plan or system of work for any such purpose.
- 6. Carry on technical and other investigations of all kinds, make measurements, collect

data and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods and use of water, both within and outside the district, and for those purposes, the district has the right of access through its authorized representatives to all properties within the district. The district, through its authorized representatives may enter these lands and make examinations, surveys, and maps thereof.

7. Enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of these works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and, where necessary or convenient for these purposes and uses, acquire and hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of the stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that, when holding the stock, the district has all the rights, powers and privileges, and is subject to all the obligations and liabilities conferred or imposed by law upon other holders of stock in the same company; perform acts necessary or proper for the performance of any agreement with the United States, or any state, county, district, public or private corporation, association, firm or individual, for the joint acquisition,

construction, leasing, ownership, disposition, use, management, maintenance. repair, or operation of any rights, works, or other property of a kind which might be lawfully acquired or owned by the district; acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; grant to any owner or lessee the right to the use of any water or right to store water in any reservoir of the district, or to carry water through any tunnels, canal, ditch, or conduit of the district; perform any acts necessary or proper for the performance of any agreement with any district, public or private corporation, association, firm, or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired or secured. for the use of the district, or for the purpose of exchanging the water right or water pumped for other water, water right or water supply in exchange for water, water right or water supply to be delivered to the district by the other party to the agreement.

- 8. Incur indebtedness issue bonds as provided in this act.
- 9. Cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act.
- 10. Make contracts and employ labor, and employ for temporary services only, expert appraisers, consultants attorneys, and technical advisers, and do all acts necessary for the full exerciser of all powers vested in the district or any of the

officers thereof.

11. Exercise the right of eminent domain, either within or outside the district, to take any property necessary to carry out any of the purposes of this act including property required for recreational facilities. The district in exercising this power shall, in addition to damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, poles of any public utility which is required to be moved to a new location. The district may not take by proceedings in eminent domain, any property, including water rights, appropriated to public use by any existing city and county or municipal utility district. Nothing in this act authorizes the district, or any person or persons, to divert the waters of any river, creek, stream irrigation system, canal or ditch, unless compensation therefor is first provided in the manner prescribed by law.

Nothing in this act affects the plenary power of any existing city and county or municipal utility district to provide for a water supply for the city and county municipal utility district, or affects the absolute control of any properties of the city and County or municipal utility district necessary for the water supply, or vests any power of control over these properties in the district, in any officer of the district, or in any person referred to in this act.

Make contracts with the County of Contra Costa and cities and districts within the county, and employ labor for the purpose of doing flood control work and for

inspecting and passing upon the adequacy of drainage plans provided for each proposed new subdivision in the county.

- 13. Construct, accept, maintain, repair, or otherwise improve structures or channels for any purpose, in whole or in part, related to the purposes and powers of the district, or perform any act necessary or incidental to the exercise of any of its powers.
- 14. Provide, operate, maintain, and charge for public use of recreation facilities in connection with flood control works and improvements within the jurisdiction of the district.
- 15. Install and maintain, in connection with flood control works and related improvements, appropriate landscaping and take other actions as necessary to mitigate environmental damage resulting from these works and improvements.
- 16. Cause to be designed and inserted in the specifications and contract, for any flood control channel or storm drain planned to be constructed under this act as an open channel, provision for the construction in conjunction therewith of facilities for the covering or crossing over of any portion, or a part of a portion, if, in the judgment of the governing body, the crossing or covering will not impair the usefulness of the flood control channel or storm drain and will not be otherwise adverse to the best interests of the district.
- 17. Participate alone, or jointly with the County of Contra Costa, or cities or districts

within the county, in the national pollutant discharge elimination system (NPDES) program; undertake necessary acts in connection with that program; and impose assessments in accordance with this act to pay for the activities authorized by this paragraph.

(Amended by Stats.1972, c.270, p. 525, § 5: Stats.1975, c. 584, p. 1185, § 3; Stats.1992, c.565 (A.B.2768), § 3.)

**SECTION 5.1--**The Improvement Act of 1911, the Municipal Improvement Act of 1913, and the Improvement Bond Act of 1915 are applicable to the district, and as applied to the district the following terms used in said acts shall mean:

- "City council" and "council" mean the commissioners of the district or the Board of Supervisors of Contra Costa County.
- 2. "City" and "municipality" mean the district.
- 3. "Clerk" and "city clerk" mean the secretary.
- 4. "Superintendent of streets," "street superintendent" and "city engineer" mean the engineer of the district, or any person appointed to perform such duties.
- 5. "Tax collector" means County tax collector.
- 6. "Treasurer" and "city treasurer" mean County Treasurer.

7. "Right of way" means any parcel of land through which a right of way has been granted to the district for the purpose of constructing and maintaining any facility of the district.

**SECTION 5.2--**The rights, powers, duties, responsibilities, and jurisdiction conferred upon officers and agents of cities by the acts specified in Section 5.1 shall be exercised or assumed, as the case may be, by the respective boards, officers and agents of the district.

**SECTION 5.3--**The improvements authorized to be constructed by Sections 5.1, 5.2, 5.4, and 5.5 are restricted to those permitted to be constructed or acquired pursuant to Section 5.

**SECTION 5.4--**No assessment or bond hereafter levied or issued pursuant to any of the acts specified in Section 5.1 shall become a lien and no person shall be deemed to have notice thereof until a certified copy of said assessment and the diagram thereto attached shall be recorded in the office of the County recorder if the improvement district or any part thereof is unincorporated territory and the superintendent of streets of the city or cities of the improvement district or any part thereof is in incorporated territory.

**SECTION 5.5--**The board, pursuant to section 5.1, 5.2, 5.3, and 5.4, may order the construction of all structures and appurtenances, channels, culverts, ditches and any work incident to the collection and control of storm waters in the whole or any portion of any of the streets, highways, or public places or in property or in rights-of-way owned by the district; provided, that said district shall first obtain the consent to such assessment district work from the legislative body or other agency having jurisdiction of the territory within which any of the proposed work is to be done.

**SECTION 5.6--**The district may make and enforce within its boundaries, including both unincorporated and incorporated territory, if any, all necessary and proper ordinances and regulations for:

- (1) The protection, control and maintenance of natural and artificial watercourses, drainage structures, dams, reservoirs, levees, water distribution and conservation facilities and rights-of-way therefor or appurtenant thereto.
- (2) All other flood control and water conservation purposes consistent with this act and not in conflict with the laws of this state.

**SECTION 5.7--**Any violation of an ordinance or regulation of the district is a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100), or imprisonment not to exceed 30 days, or by both such fine and imprisonment. Any such violation or threatened violation may also be enjoined by civil suit.

**SECTION 6--**The Board of Supervisors of Contra Costa County shall be and is hereby designated as, and empowered to act as, ex officio the Board of Supervisors of the Contra Costa County Flood Control and Water Conservation District. As used elsewhere in this act the terms "board" and "board of supervisors" mean the Board of Supervisors of the Contra Costa County Flood Control and Water Conservation District.

Each member of the board of supervisors of the district shall receive as compensation for his services twenty-four dollars (\$24) per month and his actual and necessary expenses in the

performance of official duties under this act, payable from the funds of said district in addition to his salary as County supervisor.

All ordinances, resolutions and other legislative acts for said district shall be adopted by said board of supervisors, and certified to, recorded and published, in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts for the County of Contra Costa.

SECTION 6.1--As provided in this section, the board may appoint a commission consisting of five (5) members who shall be residents of the County of Contra Costa. The board may delegate any or all of its powers to the commission. The board may by resolution provide for compensation for services and payment of the actual necessary expenses incurred by said members in the performance of official duties under this act, payable from the funds of the district. Members of the commission shall serve four (4) year terms and may be replaced or reappointed by the board at the completion of their term. Terms shall be staggered so that not less than one nor more than two commissioners are to be regularly appointed in any one year. All vacancies shall be filled for the unexpired term of the commissioner whose office is vacant in the same manner as such commissioner received appointment, except that the board of supervisors shall allocate each office on the commission to a supervisorial district and appointments to any vacancy in such office shall be made by the supervisor then representing such supervisoral district.

When the board of supervisors has delegated any or all of its powers to the commission, the terms "board" and "board of supervisors" mean the commission. The commission may, by resolution, certified to by the chairman of the commission, take action with reference to any and

all matters which have been delegated to it by the Board of Supervisors of the County of Contra Costa.

**SECTION 6.2--**Upon the formation of each zone pursuant to the provisions of this act, the board of supervisors may appoint a zone advisory board composed of five resident electors of, or owners of real property within, such zone. Zone advisory board may be consulted by the board of supervisors or the commissioners of the district in all matters affecting such zone.

The board may appoint drainage area advisory boards for each drainage area composed of resident electors of, or owners of real property within, each such drainage area.

SECTION 7--The County counsel, district attorney, County surveyor, County assessor, County tax collector, County clerk, County auditor, purchasing agent and County treasurer of the County of Contra Costa and their successors in office, and all their assistants, deputies, clerks and employees, and all other officers of said Contra Costa County, their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks and employees, respectively, of the district, and shall respectively perform, unless otherwise provided by the board, the same various duties for the district as for said Contra Costa County, in order to carry out the provisions of this act.

All such officers, deputies, clerks and employees shall receive their actual necessary expenses in the performance of official duties under this act payable from the funds of the district. The board by resolution may make provision to fully compensate the County counsel for all costs of providing extraordinary legal services to the district. Officers, assistants, deputies, clerks and

employees of the district may, without prejudice to their rights, be transferred to the service of the County of Contra Costa.

**SECTION 8--**The board shall have power to make and enforce all needful rules and regulations for the administration and government of the district and in addition to the officers and employees herein otherwise prescribed, the board may, in its discretion, appoint a chairman, a secretary and other officers, agents and employees for the board or district as, in its judgment, may be deemed necessary, prescribe their duties and fix their compensation.

(Amended by Stats.1982, c.539, p. 2475, § 1.)

SECTION 9--The board shall have jurisdiction and power by resolution to employ competent registered civil engineers to investigate and carefully devise a plan or plans to control the flood and storm waters of the district, and the zones thereof, and the flood and storm waters of streams that have their sources outside of said district but which streams and the flood waters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within or without the district, or to save or conserve in any manner, any or all of such waters, and to protect the public highways, life and property within the district, and the watercourses, harbors, and watersheds of streams flowing into the district, from damage relating to such waters; and to obtain such other information in regard thereto as may be deemed necessary or useful for carrying out the purposes of this act; and such resolution may direct such engineer or engineers to make and file reports from time to time with the board, which shall show:

1. A general description of the work proposed to be done, together with general plans,

profiles, cross-sections, and general specifications relating thereto, on each project or work of improvement.

- 2. A general description of the lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said work.
- 3. A map or maps which shall show the location and zones, as may be required, of each and said projects or improvements, and lands, rights-of-way, easements and property to be taken, acquired or injured in carrying out said work, and any other information in regard to the same that may be deemed necessary or useful.
- 4. An estimate of the cost of each project or work of improvement, including an estimate of the cost of lands, rights-of-way, easements and property proposed to be taken, acquired and injured in carrying out said project or work of improvement, and also of all incidental expenses incurred or likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and stating the total amount of bonds, if any, necessary to be issued to pay for the same.

Such engineer or engineers shall from time to time and as directed by the board file with the board supplementary, amendatory and additional reports and recommendations as necessity and convenience may require.

SECTION 10--The board shall determine which projects or work of improvement shall be carried

out and shall determine, as to each project of work of improvement, that it is either:

- 1. For the common benefit of the district as a whole; or
- 2. For the benefit of two or more zones hereinafter referred to as participating zones; or
- 3. For the benefit of a single zone.

SECTION 11--The Board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the Board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zone and in the case of participating zones, the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project. Notice of such hearing shall be given for a period of not less than twenty (20) days. If there is a newspaper of general circulation published or circulated in the territory proposed to be formed into a zone, notice shall be given by publication pursuant to Section 6066 of the Government Code. If there is no newspaper published or circulated in the territory, then such publication shall be made in a newspaper of general circulation which the Board determines most likely to give notice to residents of the territory. Publication shall be complete at least seven (7) days before said hearing. If the exterior

boundaries of such a proposed zone will include lands lying within the exterior boundaries of any chartered or incorporated city within the district, the Board of Supervisors shall submit to the governing body of such cities, a copy of the resolution specifying its intention to form such a zone and undertake such project. Such resolution shall be forward to any affected city at least twenty (20) days before the date set for the public hearing.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the Board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing, the Board may abandon the proposed project or proceed with the same, unless, prior to the conclusion of said hearing, either (1) a written protest against the proposed project, signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within such zone or within any of the participating zones for which said project was initiated, be filed with the Board, in which event, further proceedings relating to such project must be suspended for not less than six (6) months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the Board: or (2) a written petition for an election signed by at least twenty-five (25) percent of the registered voters within such zone or within any of the participating zones for which the project was initiated, be filed with the Board, in which event the Board shall, by resolution, call a special election within such zone or zones for the purpose of determining whether the board shall proceed with such project. In such latter event, in all particulars not recited in such resolution, such special election shall be held as nearly as practicable in conformity with the general election laws of the state, and if a majority of the votes cast at such special election are against proceeding with such project, further proceedings relating to such project must be suspended for

not less than six (6) months following the date of the election, or such proceedings may be abandoned in the discretion of the Board.

In all matters in this section referred to, the last equalized assessment roll of the County of contra Costa next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation of real property within the zone or within any of the participating zones for which the project was initiated.

Executors, administrators, special administrators, and guardians may sign the protest provided for in this act on behalf of the estate represented by them. If the property is assessed in the name of such representatives, that fact shall establish the right of such representatives to sign the protest; if assessed in the name of the decedent, minor or incompetent person, certified copies of the letters or such other evidence as may be satisfactory to the Board must be produced.

Where real property appears to be owned in common or jointly or by a partnership, or where letters of representatives of decedents, minors or guardians are joint, only one of the owners or representatives or partners may sign the protest for all joint owners of representatives or partners; provided, the party claiming the right to protest for all produces the written consent of the co-owners or representatives or partners so to do, duly acknowledged by the consenting co-owners or representatives or partners in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the recorder's office of the County.

Where real property is assessed in the name of a trustee or trustees, such trustee or trustees shall be deemed to be the person entitled to sign the protest, and if assessed in the name of more than one trustee, the right to sign the protest shall be determined in like manner as above provided with respect to co-owners.

The protest of any public or quasi-public corporation, private corporation or unincorporated association, may be signed by any person authorized by the Board of Directors or trustees or other managing body thereof, which authorization shall be in writing; and a proxy executed by an officer or officers thereof, attested by its seal and duly acknowledged, shall constitute sufficient evidence of such authority, and shall be filed with the Board.

The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner appearing as such on the last equalized assessment roll, since the same was made, shall be entitled to sign the protest represented thereby, either by the production of a proxy from such former owner, or by furnishing evidence of the ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the County, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

Where the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless such real property is assessed in the name of the vendor, in which event, the vendor shall be entitled to so do.

The Board shall likewise be entitled to inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. And, unless satisfactory evidence is furnished, the right to sign said protest may be denied.

SECTION 12-- (a) The Board may in any year, do any of the following:

- 1. Levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs of the district, and to carry out any of the purposes of this act of common benefit to the district, but the ad valorem tax or assessment may not exceed two cents (\$0.02) on each one hundred dollars (\$100) of assessed valuation.
- 2. Levy taxes or assessments in each or any of the zones and participating zones to pay the costs of carrying out any of the purposes of this act, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or improvements established, or to be established within or on behalf of said respective zones, or assessments to pay the costs of carrying out of activities undertaken, or to be undertaken, in connection with the national pollutant discharge elimination (NPDES) program, according to the benefits derived, or to be derived by the zones, by any of the following methods:
  - (A) A tax or assessment upon all property within a zone or participating zone, including land, improvements thereon and personal property,

- (B) A tax or assessment upon all real property within a zone or participating zones, including both land and improvements thereon.
  - It is declared that, for the purposes of any tax or assessment levied under this paragraph, the property so taxed or assessed within a given zone is equally benefitted.
- (C) An assessment upon all real property within a storm water utility area, including both land and improvements therein.
- 3. Levy taxes or assessments by a method authorized in paragraph 2 in each of the zones, according to the special benefits derived, or to be derived, by the specific properties therein, to pay the costs of carrying out any of the objects or purposes of this act of special benefit to the zones, including the constructing, maintaining, operation, extending, repairing, or otherwise improving any or all works of improvement established or to be established within, or on behalf of, the respective zones.

(b)In the event of project cooperation with any public entity as authorized in paragraph (5) of subdivision (b) of Section 5, and requiring the making of a contract with public entity for the purposes set forth in that paragraph, by the terms of which work is to be performed by public entity in any specified zone or participating zones, for the particular benefit thereof, and by the proposed contract the district is to pay to the public entity a sum of money in consideration or subvention for the performance of the work by the public entity, the board may, after proceedings in the manner prescribed in Section 11, levy and collect a special tax or assessment upon the

property in the zone or participating zones, to raise funds to enable the district to make such payment, in addition to other taxes or assessments authorized by this act.

- (c)The taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from these district taxes or assessments shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board may control and order the expenditure thereof for those purposes, except that no revenues, or portions thereof, derived in any zone from the taxes or assessments levied under paragraph (2) or (3) of subdivision (a) may be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside the zone, but for the benefit thereof. In cases of projects affecting two or more zones, those zones will become, and shall be referred to as, participating zones.
- (d) Notwithstanding any other provision of law, the district may not improve taxes or assessments to pay the costs of carrying out activities undertaken, or to be undertaken, in connection with the national pollutant discharge elimination system (NPDES) program on any discharger that is subject to storm water discharge requirements pursuant to a national pollutant discharge elimination system (NPDES) permit, if the discharger collects and treats storm water, and discharges the storm water directly into the waters of the United States.
- (e) The prohibition in subdivision (d) does not apply to a discharger that is subject to storm water discharge requirements pursuant to a national pollutant discharge elimination system (NPDES)permit if the discharger discharges into a municipal storm water sewer system.

(Amended by Stats. 1992, c 565 (A.B. 2768), § 4.)

SECTION 12.1--The board shall also have power to prescribe, revise, and collect fees or charges for facilities furnished or to be furnished to any area, new building, improvement, or structure that will benefit from any flood control, storm drainage, water conservation or supply or sewerage system constructed or to be constructed in a zone of the district. Revenues derived under this section shall be used for the acquisition, construction, engineering reconstruction, maintenance, and operation of the flood control, storm drainage, water, or sewerage facilities of the zone, or to reduce the principal or interest of any bonded indebtedness thereof.

The Board may also provide that any fees or charges collected pursuant to Section 12.2 of this act may be credited to or deducted from any fees or charges imposed under this section.

The collection of any fee, charge, or assessment to be levied under this section or Section 12.2 of this act may be collected by the district notwithstanding any other provisions contained herein.

**SECTION 12.2--**The board by resolution thereof adopted from time to time, may establish drainage areas within the district without reference to the boundaries of other zones or drainage areas, setting forth in such resolution descriptions thereof by metes and bounds and entitling each of such areas by an area designation or number, and institute drainage plans for the specific benefit of such areas.

If the exterior boundaries of such a proposed drainage area will include lands lying within the exterior boundaries of any city within the district, the board shall submit to the governing body of

such city, a copy of the resolution specifying its intention to form such area and institute a drainage plan therefor. Such resolution shall be forwarded to any affected city as least 20 days before the date the board proposes to adopt the resolution establishing the drainage area. If prior to taking final action by resolution to form any area, the exterior boundaries of which will include any lands lying within the exterior boundaries of any city within the district, the board receives a resolution or ordinance adopted by a majority of the members of the governing body of such city requesting exclusion of such city territory from the area, the board shall exclude such territory.

A drainage area may include all lands contributing to the drainage requirements of an area, excluding as necessary such lands as are already developed or those adequately served by existing local drainage facilities serving the area at the time of the adoption of a plan for additional drainage facilities from fees.

Whenever drainage facilities, conforming to the instituted drainage plan, are required in the development of any land within a drainage area and where, in the opinion of the board, it is necessary that other facilities be constructed which can be or will be used for the benefit of other property in the drainage area, and such drainage facilities are dedicated to the public, the board may contract with the developer and agree to reimburse, and may contract with the developer and agree to reimburse, and may reimburse him, for all or any portion of such drainage facilities. Such contract shall provide that the board may collect a reasonable charge from any person, corporation, or agency using such facilities for the benefit of other property in the drainage area. Where existing drainage facilities conform to the instituted drainage plan, the board may contract with the developer of the installed drainage facilities and agree to reimburse, and may reimburse

him, for all or any portion of such drainage facilities if such drainage facilities are dedicated to the district or public.

Fees may be collected pursuant to this section for payment of all or any portion of any such drainage facility costs if the costs, whether actual or estimated, are based upon findings by the board, that development of property within the planned drainage area will require construction of the facilities described in the drainage plan, and that fees are fairly apportioned within the local drainage area on the basis of benefits conferred on property within the area. The fee as to any property within the drainage area may be charged as a condition precedent to the development of such property, and no building permit therefor shall be issued or the final map for a subdivision approved until payment thereof, and such fee shall not exceed the pro rata share of the amount of the total actual or estimated costs of all such drainage facilities within the drainage area which would be assessable on such property if such costs were apportioned on a uniform fee schedule, excluding, however, such property within the area as, in the opinion of the board, is incapable of development from fees.

The fees collected by the district, pursuant to this section, shall be paid into a drainage facilities fund. A separate fund shall be established for each drainage area. Any money placed in such fund shall be expended as provided in this section for land acquisition, construction, engineering, repair, maintenance and operation or reimbursement for the same, in whole or in part, of local drainage facilities within the planned drainage area from which the fees comprising the fund were collected or to reduce the principal or interest of any bonded indebtedness of the drainage area.

The term "developer," as used herein, shall include a subdivider, industrial developer, or any

person, corporation, district, public or private agency, or group that may participate in the drainage facilities constructed pursuant to this section.

Any drainage facilities constructed in any drainage area may be installed by the developer at his sole cost and expense in accordance with plans and specifications prepared or approved by the district, by the district with its own funds, or by the district with funds supplied by the developer, and the cost thereof may be collected and repaid, in whole or in part, in the manner provided for in this section. (Chapter 526 of the Statutes of 1976).

SECTION 12.3--Prior to the establishment of any benefit area pursuant to Section 12.1 or drainage area pursuant to Section 12.2 of this act, the board shall adopt a resolution specifying its intention to establish such benefit area or drainage area. Such resolution shall refer to a map or maps showing the general location of such area and be accompanied by a proposed ordinance prescribing whatever fees and charges, except ad valorem taxes and assessments to be imposed therein and fixing a time and place for public hearing of the resolution.

The notices required to be given for such hearing and the procedures to be followed at such hearing shall comply substantially with the requirements of Section 11 of this act.

The provisions of this section shall be exclusive in determining the proper procedure for the establishment of any special benefit area pursuant to Section 12.1 or drainage area, pursuant to Section 12.2, any other provision of law notwithstanding.

SECTION 12.4--If, in its resolution specifying its intention to establish a drainage area and

resolution establishing the drainage area, the board states its intention to levy ad valorem taxes or assessments upon all property in the drainage area for the financing, constructing, maintaining, repairing, extending, or otherwise improving any work or improvement authorized by this act, the board may in any year levy, collect, and expend taxes and assessments pursuant to paragraph (2) or (3) of subdivision (a) of Section 12.

(Added by Stats.1972, c.270, p. 536, § 16. Amended by Stats.1992, c. 565 (A.B. 2768), § 5.)

SECTION 12.5--Where the board proposes to establish a drainage area pursuant to Section 12.4 to levy ad valorem taxes or assessments and there are filed with the board within 20 days after publication of notice of its intention to proceed written protests against the proposed drainage area signed by the owners of more than 50 percent of the assessed value of land therein, the board shall abandon the proposed establishment of the area. Protests and persons qualified to enter and file protests shall comply substantially with the requirements of Section 11 of this act.

SECTION 12.6--Any parcel, parcels or tract of land may be annexed to a drainage area and any parcel, parcels, or tract of land within any drainage area may be excluded. Proceedings for annexation or exclusion may be instituted by the board by resolution specifying its intention to annex or exclude such parcel, parcels, or tract of land, describing the proposed land to be annexed or excluded and specifying a time and place for public hearing on said resolution, which public hearing may be held at any place within the district, and directing the clerk to give notice of such public hearing as hereinafter provided. In the alternative, such proceedings may be instituted by the filing with the board of a petition signed by ten percent (10%) or more of the owners, as defined in Section 11, of the land to be annexed or excluded. The petition shall contain:

- (a) The name of the drainage area affected by the annexation or exclusion.
- (b) The reason for annexation or exclusion of the land.
- (c) A description of the land to be annexed or excluded.
- (d) The assent of the petitioners to the annexation or exclusion.
- (e) A request that the described land be annexed to or excluded from the drainage area.

**SECTION 12.7--**When the petition has been filed with the board, the board shall fix a time and place for a hearing thereon, which public hearing may be held at any place within the district, and cause a notice of such hearing to be given as provided in Section 3.3. The notice shall state:

- (a) The date the petition was filed.
- (b) The location and boundaries of the land described in the petition.
- (c) The prayer of the petition.
- (d) The time and place fixed for hearing on the petition.
- (e) That all persons interested in or affected by such change in the drainage area boundaries may appear and show cause why the change should not be made. At the hearing, the board shall hear all relevant evidence for or against the petition.
- (f) If it is the board's intention to levy ad valorem taxes or assessments upon the land.

Failure to show cause by any person interested in or affected by the change is deemed to be his assent to any change the board may make in the drainage area boundaries.

At the conclusion of the hearing, if it deems the annexation or exclusion of all or part of the land

to be for the best interests of the drainage area, the board may by resolution annex or exclude all or part of the land described in the petition and shall, in such resolution, describe the drainage area boundaries as changed. If no effective date for such annexation or exclusion is specified in the resolution, then the effective date shall be deemed to be the date of the resolution.

The exclusion of any land or territory from a drainage area does not release such land or territory from any debts or obligations for which it was liable at the time of the exclusion unless otherwise specified in the resolution of exclusion.

In the case of annexation, the board may require that the owners of annexed land shall pay a sum not to exceed the amount of the taxes or assessments which the owners or their predecessors in interest would have been required to pay if the annexed land had been included in the drainage area when it was formed.

**SECTION 12.8-**(a) The board, by resolution, may establish storm water utility areas within the district, without reference to the boundaries of other storm water utility areas, zones, or drainage areas, and shall include in the resolution descriptions of each storm water utility area and an identification of each of the areas by area designation or number. A storm water utility area need not follow the boundaries of watersheds and may consist of unincorporated territory or incorporated territory, or a combination of both.

(b) Upon or after the formation of a storm water utility area, the board may, by resolution r ordinance adopted after notice and hearing, impose an annual assessment within a storm water utility area for the purpose of paying for the costs of activities undertaken, or to be undertaken, in

connection with the national pollutant discharge elimination system (NPDES) program.

- (c) (1) Before imposing an assessment pursuant to subdivision (b), the board shall cause to be prepared and filed with the clerk of the board a written report which includes all of the following:
  - (A) A description of each lot or parcel or class of property proposed to be subject to the assessment.
    - (B) The amount of the assessment for each lot or parcel or class of property for the initial fiscal year.
    - (C) The maximum amount of the assessment or method for calculating the assessment that may be levied for each lot or parcel during any subsequent fiscal year.
  - Upon the filing of the report, the clerk shall fix a time, date, and place for a hearing on the proposed assessment and for filing objections or protests thereto. The hearing shall be held within 30 days after the filing of the report. The notices required to be given for the hearing shall comply substantially with the requirements of Section 11.
- (d) (1) If the boundaries of a proposed storm water utility area include lands within the boundaries of any city within the district, the city may submit to the district a copy of a resolution approved by a majority of the members of the governing body of the city requesting formation of a storm water utility area and requesting the imposition of

an assessment pursuant to this section.

- (2) If the city does not submit a copy of the resolution pursuant to paragraph (1) to the board, the board shall exclude from the proposed storm water utility area the lands within the boundaries of that city.
- (e) (1) At the hearing, the board shall consider all objections or protests, if any, to the report and may continue the hearing from time to time.
  - At the conclusion of the hearing, the board shall determine whether a majority protest exists and shall rule on any objections or protests that have been filed. The board may order the formation of the storm water utility area and may impose an annual assessment, unless prior to the hearing written protests signed by the owners of more than 50 percent in area of the territory proposed to be included in the storm water utility area have been filed with the board. The persons entitled to submit written protests shall be determined pursuant to Section 11.
  - (3) For purposes of imposing an assessment pursuant to this section, the board may consider parcel size, class of improvement t property, use of property, proportionate storm water runoff, or any other factor determined to be relevant by the board for benefit determination.
- (f) (1) The board may provide for the collection of the assessment, or any installments thereof, in the same manner, and subject to, the same penalties and priority of lien,

as other charges and taxes fixed and collected by, or on behalf of, the district, except that if, for the first year the assessment is levied, the real property on which the assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent, the assessment shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

- (2) Assessment for subsequent years may be collected according to the procedure set forth in this section. Proposed assessments for subsequent years are subject to the majority protest provisions set forth in subdivision (e) if either of the following occurs:
  - (A) The maximum amount of the proposed assessment exceeds the maximum amount originally established by the board and described in its written report prepared pursuant to paragraph (1) of subdivision (c).
  - (B) The proposed assessment is calculated by a method that is different from the method originally established by the board and described in its written report prepared pursuant to paragraph (1) of subdivision (c).
- (g) Any storm water utility area formed by the district prior to July 1, 1993, shall be effective for assessment and taxation purposes for the 1993-94 fiscal year, if the required statements and map or plat are filed on or before July 15, 1993.

  (Added by Stats.1992, c. 565 (A.B.2768), § 6.)

40

**SECTION 13**--(1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any zone or zones, the board may by resolution determine and declare the respective amounts of bonds, necessary to be issued in each zone in order to raise the amount of money necessary for each work or improvement and the denomination and the maximum rate of interest of said bonds. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the Office of the Recorder of Contra Costa County within five days after its issuance. From and after said filing of said copy of said resolution the board shall be deemed vested with the authority to proceed with the bond election. (2) After the filing for record of the resolution specified in subdivision (1) of the section, the board may call a special bond election in said zone or participating zones at which shall be submitted to the qualified electors of said zone or participating zones the question whether or not bonds shall be issued in the amount or amounts determined in said resolution and for the purpose or purposes therein stated. Said bonds and the interest thereon shall be paid from revenue derived from annual taxes or assessments levied as provided in this act. (3) Said board shall call such special bond election by ordinance and not otherwise and submit to the qualified electors of said zone or participating zones, the proposition of incurring a bonded debt in said zone or participating zones in the amount and for the purposes stated in said resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of such resolution adopted by said board, and on file for particulars; and said ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on said indebtedness, and shall fix the date on which such

special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed 7 percent (7%) per annum. For the purposes of said election, said board shall in said ordinance establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in said district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge and one clerk for each of such special bond election precincts.

In all particulars not recited in said ordinance such special bond election shall be held as nearly as practicable in conformity with the general election laws of the state.

Said board shall cause a map or maps to be prepared covering a general description of the work to be done, which said map shall show the location of the proposed works and improvements and shall cause the said map to be posted in a prominent place in the County courthouse for public inspection for at least thirty (30) days before the date fixed for such election.

Said ordinance calling for such special bond election shall, prior to the date set for such election, be published pursuant to Section 6062 of the Government Code in a newspaper of general circulation circulated in each zone and participating zone affected. The last publication of such ordinance must be at least fourteen (14) days before said election, and if there be no such newspaper, then such ordinance shall be posted in five public places designated by the board, in each zone and participating zone for at least thirty (30) days before the date fixed for such election. No other notice of such election need be given nor need polling place cards be issued.

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by said election. Where a project affects a single zone only, if at such election two-thirds (2/3) of the votes cast in said zone on the proposition of incurring a bonded indebtedness are in favor thereof, then bonds for such zone for the amount stated in such proceedings shall be issued and sold as in this act provided. Where the incurring of bonded indebtedness by participating zones is to be determined at such election, no bonds for any of such participating zones shall be issued or sold unless two-thirds (2/3) of the votes cast on the proposition in each such participating zone are in favor of incurring the bonded indebtedness to be undertaken by such zone.

**SECTION 14**. The board shall, subject to the provisions of this act, prescribe by resolution the form of said bonds, which must include a designation of the zone or participating zone affected, and of the interest coupons attached thereto. Said bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date, and at a place to be fixed by said board, and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of said indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. the board may fix a date, not more than two years from the date of issuance, for the earliest maturity of each issue or series of bonds. Beginning with the date of the earliest maturity of each issue or series, not less than one-fortieth (1/40) of the indebtedness of such issue or series shall be paid every year. The final maturity date shall not exceed 40 years from the time of incurring

the indebtedness evidenced by each issue or series.

The bonds shall be issued in such denomination as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars (\$100), nor of a greater denomination than one thousand dollars (\$1,000), and shall be payable on the days and at the place fixed in said bonds, and with interest at the date specified in such bonds, which rate shall not be in excess of 7 percent (7%) per annum, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of said district, and the seal of said district shall be affixed thereto by the clerk of the board. Either or both such signatures may be printed, engraved or lithographed. The interest coupons of said bounds shall be numbered consecutively and signed by the said auditor by his printed, engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such bonds and coupons and signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds.

SECTION 15. The board may also issue and sell the bonds of any such zones authorized as hereinbefore provided at not less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Contra Costa to the credit of said district and the respective participating zones thereof, for the uses and purposes of the zone or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said County treasurer, and said respective zone funds shall be applied exclusively to the purposes and objects mentioned in the ordinance calling for such special bond election as aforesaid, subject to

the provisions in this act contained. Payments from said zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Contra Costa.

**SECTION 16**. Any bonds issued under this act, and the interest thereon, shall be paid by revenue derived from an annual tax or assessment levied as provided in subparagraph (A) or (B) of paragraph (2) of subdivision (a) of Section 12. No zene, nor the property in any other zone, is liable for the bonded indebtedness of any other zone, nor shall any money derived from taxation or assessments in any of the several zones be used to pay the principal of, or interest on, or otherwise, of the bonded indebtedness chargeable to any other zone.

(Amended by Stats.1992, c.565 (A.B.2768), § 7.)

SECTION 17. The board shall levy a tax or assessment each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general tax levy. Such taxes or assessments, shall be levied and collected in the respective zones of issuance together with and not separately from taxes for County purposes, and when collected shall be paid into the County treasury of said Contra Costa County to the credit of the zone of issuance, and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the County treasurer of said Contra Costa County in the manner provided by law for the payment of principal and interest on bonds of said County.

**SECTION 18.** The provisions of law of this state, prescribing the time and manner of levying, assessing, equalizing and collecting County property taxes, including the sale of property for

delinquency, and the redemption from such sale, and the duties of the several County officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act. All property exempt from taxation for County purposes under the provisions of the Revenue and Taxation Code of the State of California is exempt from taxation for the purposes of this act. Property used for free public libraries and free museums, property used exclusively for public schools and such as may belong to this state, or to any County, city and County, or municipal corporation within this state shall be exempt from assessment, except such lands and the improvements thereon located outside of the County, city and County or municipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said County, city and County, or municipal corporation; provided, that no improvements of any character whatever constructed by any County, city and County or municipal corporation shall be subject to assessment.

SECTION 18.5. (a) The total amount of taxes and assessments levied on property within any zone shall not exceed twenty cents (\$0.20) on each one hundred dollars (\$100) of assessed valuation, exclusive of the amounts necessary for interest and redemption of any bonds voted within such zone or any taxes and assessments levied for drainage areas pursuant to Section 12.4; except a special tax-may be levied in s subzone, zone or participating zone as provided in subdivision 3 of Section 12 of this act to meet contractual obligations with another governmental body, if, at an election held in such subzone, zone or participating zone, in the same manner as a bond election, the proposed imposition of special tax is approved by a majority of the votes cast on such proposition.

(b) The board shall have power, in any year, to levy taxes or assessments pursuant to subdivision (a) of this section upon all property within any zone or subzone with an adopted project to pay for work authorized pursuant to subdivision 17 of Section 5. Further a special tax or assessment not to exceed two cents (\$0.02) on each one hundred dollars (\$100) of assessed valuation may be levied in addition to the total twenty cents (\$0.20) of taxes and assessments on each one hundred dollars (\$100) of assessed valuation specified in subdivision (a) of this section to pay for work authorized by subdivision 17 of Section 5.

SECTION 19. Any storm drain maintenance district organized in Contra Costa County under the Storm Drain Maintenance District Act (Chapter 265 of the Statutes of 1937), zone established under the Contra Costa County Storm Drainage District Act (Chapter 1532 of the Statutes of 1953) or County service area established in Contra Costa County pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code may be converted into a drainage area in the manner provided by Sections 19.1, 19.2, 19.3 and 19.4 of this act. (Chapter 133 of the Statutes of 1975).

**SECTION 19.1.** Proceedings for the conversion of a storm drain maintenance district, Contra Costa County Storm Drainage District zone, or County service area into a drainage area may be commenced by the board by the adoption of a resolution which shall:

(a) State the name, general location, and the boundaries of the district, zone, or County service area proposed to be converted and the name or number and the boundaries of the drainage area proposed to be established. The boundaries may be described in the resolution by

reference to a legal description thereof on file in the office of the clerk of the board.

- (b) State that a tax may be levied pursuant to Section 12.4 to pay for services or works of improvement furnished within such area after due allowance has been made for existing unencumbered funds standing to the credit of the district, zone, or County service area in the County treasury.
- (c) Fix a time and place for a public hearing on the conversion, which shall not be less than 30 nor more than 60 days after the adoption of the resolution.

This section of this act is intended to be and shall be considered the latest enactment with respect to the matters herein contained and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed. (Chapter 526 of the Statutes of 1976)

**SECTION 19.2.** Notice of the conversion hearing shall be given in the same manner and within the same time as provided for the giving of notice of a hearing on a resolution of intention to establish a drainage area.

The notice shall:

- (a) Contain the text of the resolution.
- (b) State the time and place for hearing.
- (c) State that at the hearing the testimony of all interested persons or taxpayers for or against the conversion will be heard.

**SECTION 19.3.** At the hearing protests against the conversion may be made orally or in writing by any interested persons or taxpayers. The hearing may be continued from time to time, but must be completed within 30 days. At the conclusion of the hearing the board of supervisors may abandon the proceedings or may, after passing upon all protests, by resolution order the district. zone or service area converted into a drainage area. The conversion shall be effective immediately upon the adoption of the resolution, subject only to compliance with the requirements of Chapter 8 (commencing with Section 54900), Part 1, Division 2, Title 5 of the Government Code. Upon conversion any unencumbered funds standing to the credit of the district, zone or service area in the County treasury shall be transferred to the credit of the newly established drainage area, and all indebtedness of the district, conversion any unencumbered funds standing to the credit of the district or zone in the County treasury shall be transferred to the credit of the newly established drainage area, and all indebtedness of the district or zone shall become indebtedness of the drainage area. Upon conversion of a district, zone or service area, the right, title and interest to any property owned or controlled by, or held for the district, zone or service area, or for the benefit of the district, zone or service area shall vest absolutely in the Contra Costa County Flood Control and Water Conservation District to be used for the benefit of the drainage area unless otherwise specified in the resolution of conversion. (Chapter 133 of the Statutes of 1975.)

**SECTION 19.4.** From and after the adoption of a resolution of conversion in accordance with Section 19.3, the newly established drainage area may levy, collect, and expend taxes and assessments as provided by Section 12.4 of this act.

SECTION 20. The bonds of the district issued for any zone or drainage area thereof pursuant to

this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities in the State of California, such money or funds may be invested in the said bonds of said district issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts of municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of said district may be so used. (Chapter 526 of the Statues of 1976.)

This section of this act is intended to be and shall be considered the latest enactment with respect to the matters herein contained and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed.

**SECTION 20.1.** Bonds may be authorized and issued and bond indebtedness incurred for drainage areas under this act in the same manner and subject to the same provisions for such as provided for zones. (Chapter 526 of the Statutes of 1976.)

**SECTION 21.** All bonds issued by said district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a reclamation district and an irrigation district within the meaning of Section 1-3/4 of Article XIII and Section 13 of Article XI of the Constitution of this State.

SECTION 22. All contracts for any improvements or unit of work when the cost thereof according

to the estimate of the engineer, will exceed ten thousand dollars (\$10,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interest of the district. The board shall make call for bids and advertise such call by three (3) insertions in a daily newspaper of general circulation or by two (2) insertions in weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 15 of part 4 of division 3 of the Civil Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of ten thousand dollars (\$10,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have said work done by day labor, under the direction of the board, by contract, or by a combination of the two. The district shall have the power to acquire in the open market without advertising for bids

therefor, materials, equipment and supplies for use in any work or for any other purpose; provided however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars (\$5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

SECTION 23. Any improvement for which bonds are voted under the provisions of this act, shall be made in conformity with the report, plans, specifications and map theretofore adopted, as above specified, unless the doing of any of such work described, in said report, shall be prohibited by law, or be rendered contrary to the best interest of the district by some change of conditions in relation thereto, subsequent to the date of filing the report, plans, specifications and map theretofore adopted, in which event the board of supervisors may order necessary changes made in such proposed work or improvements and may cause any plans and specifications to be made and adopted therefor.

SECTION 24. Whenever bonds have been authorized by any zone or participating zone of said district and said bonds have been issued as in this act authorized, the board shall by resolution determine that additional bonds should be issued for carrying out the work of flood control, or for any of the purposes of this act, the board may again proceed as in this act provided, and submit to the qualified voters of said zone or participating zone, the question of issuing additional bonds in the same manner and with like procedure as hereinbefore provided, and all the above provisions of this act for the issuing and sale of such bonds, and for the expenditure of the proceeds thereof, shall be deemed to apply to such issue of additional bonds.

**SECTION 25.** Should a proposition for issuing bonds for any zone or participating zones submitted at any election under this act fail to receive the requisite number of votes of the qualified electors voting at such election to incur the indebtedness for the purpose specified, the board shall not for six months after such election call or order another election in such zone or participating zone for incurring indebtedness and issuing bonds under the terms of this act for the same objects and purposes.

SECTION 25.5. The board may, with the consent of any holder or holders of outstanding bonds of the district exchange refunding bonds bearing a lower rate of interest for such outstanding bonds. Whenever any holder of outstanding bond or bonds shall have consented to such exchange, the board may, by resolution entered in its minutes, order the refunding of such bonds. The resolution shall designate the numbers, denominations, dates of maturity and aggregate principal amounts of the bonds so to be refunded and shall provide for the issuance of refunding bonds in exchange therefor, and form, numbers, denominations, dates of maturity and aggregate principal amounts of which shall be the same as the bonds so to be refunded. The resolution shall also fix the rate of interest said refunding bonds shall bear, which rate shall be less than the rate provided in the bonds to be refunded. The resolution shall also fix the form of the interest coupons attached to said refunding bonds, which shall be the same as the bonds to be refunded, excepting that the rate and amounts of interest shall be less as herein above provided.

The refunding bonds shall be signed by the chairman of the board or such other member of the board as said board may by resolution designate, and shall be countersigned by the treasurer of the district, and the seal of said district shall be affixed thereto. The interest coupons shall be numbered consecutively and signed by the treasurer of said district by his engraved or

lithographed signature. In case any officer whose signature or countersignature appears on said bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the bonds.

Each refunding bond may be exchanged for its corresponding outstanding bond as the board by agreement with the holder of such outstanding bond-may determine, except that in effecting such exchange, any and all matured coupons on said refunding bonds shall be detached and canceled and the principal and accrued interest of both issues shall be accepted at par value and the district shall pay said holder in cash out of moneys in the bond interest fund of the district an amount equal to the difference between the interest on the outstanding bond and on the refunding bond accrued to the date of such exchange.

When any refunding bonds shall have been exchanged, taxes shall be levied and collected to pay the principal and interest thereof as provided by Section 17, all the provisions of which section shall apply to said refunding bonds to the same extent as to original issues.

The refunding bonds shall also be legal investments for fiduciaries and others as provided in Section 20.

**SECTION 26**. The repeal or amendment of this act shall not in any way affect or release any of the property in said district or any zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

SECTION 27. Notwithstanding any provisions of this act to the contrary, the withdrawal of all the area lying within the exterior boundaries of any chartered or incorporated city from a zone may be effected by the vote of a majority of the qualified electors of said city voting at any regular or special election on the proposition to withdraw the area lying within such city from the zone, where such zone's adopted project, if any, has been completed. Said election shall in all particulars be held as provided by law for holding a municipal election in said city and the cost thereof shall be a city charge. The city council shall cause the results of the election to be certified to the board of supervisors of the zone and if a majority of the votes cast on the proposition to withdraw such area from the zone are in favor thereof, thereupon the area lying within the exterior boundaries of such city shall no longer be a part of the zone; provided, however, that the withdrawal of the area lying within the exterior boundaries of such city from the zone shall not release the area so withdrawn from debts and obligations for or upon which it was liable or chargeable at the time such withdrawal was made.

SECTION 28. There is hereby granted to the district the right of way for the location, construction, and maintenance of flood control channels, ditches, waterways, conduits, canals, storm dikes, embankments, and protective works in, over and across public lands of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary from the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right of way for such works or adjuncts thereto is made by the district the board thereof must transmit to the State Lands Commission, the Controller of the State and the recorder of the County in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selections so made it

shall endorse its approval upon the plat and issue to the district a permit to use such right of way and lands.

SECTION 29. Pursuant to a resolution adopted by a four-fifths vote of all the members of the board, the district may appropriate any of its available district, zone, subzone or drainage area moneys to a revolving fund to be used for the acquisition of real or personal property. environmental impact studies, fiscal analysis, engineering services, salaries, wages, services, supplies, maintenance, or the construction of structures or improvements needed in whole or in part to provide or maintain the improvements authorized by Section 5 in a zone, subzone, or drainage area located wholly within the district. The revolving fund shall be reimbursed from fees, charges, tax revenues or other moneys available from the zone, subzone, or drainage area. and no sums shall be disbursed from the fund until the board has, by resolution, established the method by and term within which the zone, subzone, or drainage area is to reimburse the fund for any amount disbursed to the zone, subzone, or drainage area, together with interest at the current rate per annum received on similar types of investments by Contra Costa County as determined by the County treasurer. Moneys and interest reimbursed to the revolving fund shall be transferred from the fund to the district, zone, subzone, or drainage area from which the moneys were originally transferred.

**SECTION 30**. Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of division 316 of Title 1 of the Government code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited

and paid in the same manner and with the same effect as are similar claims against the County.

**SECTION 30.5.** (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedures applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution adopted pursuant to this act that imposes an assessment, charge, or fee or amends an existing ordinance or resolution.

- (b) If an ordinance or resolution provides for an automatic adjustment in an assessment, charge, or fee, and the automatic adjustment results in an increase in the amount of an assessment, charge, or fee, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 60 days of the effective date of the increase.
- (c) Any appeal from a final judgment in the action or proceeding brought pursuant to this section shall be filed within 30 days after entry of judgment.

  (Added by Stats.1992, c. 565 (A.B.2768), § 9.)

**SECTION 31.** The legal title to all property acquired under the provisions of this act shall immediately and by operation law vest in said district, and shall be held by said district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided; and said board may determine, by resolution duly entered in their minutes that any property, real or personal, held by said district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease or otherwise dispose of said property in the manner prescribed by law for such action by counties; provided, however,

that notwithstanding any other provisions of law, the board may grant an easement or permit for use of any real property of the district to the state, or to any County, city, district or public agency or corporation, or to any public utility corporation, upon such terms and conditions as the board sees fit, upon a finding by the board that the interest in land conveyed is in the public interest and will not substantially conflict or interfere with the use of such property by the district for the purpose for which it was acquired.

The board may by resolution vacate or abandon easements for flood control or drainage purposes whenever it determines that they are no longer required for public use.

SECTION 32. The district formed under this act in order to determine the legality of its existence may institute a proceeding therefor in the superior court of this state, in and for the County of Contra Costa, by filing with the clerk of said County a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal flood control district formed under the provision of this act. The summons in such proceedings shall be served by publishing a copy thereof once a week for four weeks in a newspaper of general circulation published in said County. Within thirty (30) days after proof of publication of said summons shall have been filed in said proceeding, the State, any property owner o resident in said district, or any person interested may appear as a defendant in said action by serving and filing an answer to said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district and shall be served upon the district attorney before being filed in such proceeding. Such proceeding is hereby declared to be proceeding in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever, including the district and the State of California.

SECTION 33. The board may require any office or employee to give bond for the faithful performance of the duties of his office, in such penal sum as may be fixed by the board. When deemed expedient by the board, a master bond may be used which shall provide coverage on more than one officer, employee or agent of the district who is required by the district to give bond. Such bond shall be in the form and for the term which is approved by the board. The premium for such bond shall be paid by the district.

SECTION 34. Notwithstanding any provisions of this act to the contrary, in the event the proceeds from the sale of bonds of any zone are invested temporarily in United States bonds, notes, or certificates of indebtedness, or in other legal investments, pending the expenditure of said funds for the purpose or purposes for which said indebtedness was incurred, any revenue or interest received or accruing therefrom may be used to pay the annual or semiannual installments of principal and/or interest on said bonds as some become due.

**SECTION 35.** This act, and every part thereof, shall be liberally construed to promote the object thereof, and to carry out its intents and purposes.

**SECTION 36.** If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

NOTE:

The following urgency clause was inserted in Chapter 1396 of the Statutes of 1953 in

order that the amendments contained in Chapter 1396 would become effective July 1.

1953.

This act is an urgency measure necessary for the immediate preservation of the public peace.

health or safety within the meaning of Article IV of the Constitution and shall go into immediate

effect. The facts constituting such necessity are:

At the present time the Contra Costa County Flood Control and Water Conservation

District Act provides for only a one cent (\$0.01) tax on every one hundred dollars (\$100) of

assessed valuation. It has been found that the amount derived from this tax provides for

only approximately one-half of the funds necessary to accomplish the essential work of the

district. This act increases the tax rate funds so that the district may properly perform its

functions. It is therefore urgently necessary that the bill be enacted into law and become

effective before July 1, 1953, in order that the tax provided herein may be levied for the

1953-54 fiscal year.

:drg

g\admin\milt:cccfcwcd.act

1/16/96

(Amend. 9/24/97)

60

f .			
f			

		C
		Works amount of the
		r ·
		t Street